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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THE ESTATE OF MARIA PEROVICH,
VICTOR GOJCAJ,

Plaintiffs,

Case No.: 2:09-CV-12192

HON: Patrick Duggan

- vs -

STERLING HEIGHTS POLICE OFFICER
ANTOINETTE FETT, STERLING HEIGHTS POLICE
SERGEANT DAVID CATTANEO, STERLING HEIGHTS
POLICE OFFICER AARON BURGESS AND CLINTON
TOWNSHIP POLICE DETECTIVE LEO MELISE,

Defendants,

DEPOSITION OF DAVID M. CATTANEO

The deposition of DAVID M. CATTANEO taken before JANICE J.
FLYNN, Notary Public and Court Reporter, CER 5416, in and for
the County of Macomb, State of Michigan, held on Wednesday,
May 12, 2010 at 12900 Hall Road, Suite 350, Sterling Heights,
Michigan, 48313 commencing at 1:10 p.m.

APPEARANCES: LAW OFFICES OF PATRICK J. MCQUEENEY
BY: PATRICK J. MCQUEENEY, ESQ.
Attorney for Plaintiff
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Clinton Township, Michigan 48035

O'REILLY RANCILIO, PC.
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Sterling Heights, Michigan 48313
PLUNKETT COONEY
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Attorney for Defendant Leo Melise
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Mt. Clemens, Michigan 48043

ALSO APPEARING: VICTOR GOJCAJ

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1 Sterling Heights, Michigan

2 Wednesday, May 12, 2010

3 At about 1:10 p.m.

4 *

5 D A V I D M. C A T T A N E O

6 Having been first duly sworn by the Notary Public to
7 tell the truth, the whole truth and nothing but the
8 truth, testified upon his oath as follows:

9 MR. MCQUEENEY: Let the record reflect this is
10 the deposition of -- Is it sergeant or detective?

11 THE WITNESS: Sergeant.

12 MR. MCQUEENEY: Sergeant David Cattaneo.

13 THE WITNESS: Cattaneo.

14 MR. MCQUEENEY: Cattaneo. I apologize.

15 THE WITNESS: That's pretty good.

16 MR. MCQUEENEY: I'm trying. This deposition
17 is being taken pursuant to the Federal Rules of
18 Evidence and the Federal Rules of Civil Procedure.

19 EXAMINATION

20 BY MR. MCQUEENEY:

21 Q Sergeant Cattaneo, I'm Patrick McQueeney. I
22 represent Mr. Victor Gojcay. I'm going to be asking
23 you a series of questions. I ask that you clearly
24 annunciate all of your answers. No shrugging of the
25 shoulders, nodding of the head. The court reporter

1 is going to take down everything you say. If you
2 answer the question, I'll presume you understood the
3 question. If you need me to rephrase or repeat the
4 question, please advise me and I will do so. Please
5 state your full name and spell your last name for
6 the record, please.

7 A My name is David Mark Cattaneo, C-a-t-t-a-n-e-o.

8 Q And how far did you go in school?

9 A Approximately, three years of college.

10 Q Where did you go to college?

11 A Wayne State University.

12 Q And you didn't obtain a degree from Wayne State?

13 A No, sir, I did not.

14 Q Okay. Any other education, other than high school
15 and the college stated as Wayne State University?

16 A Formal education, no.

17 Q Okay. You're currently employed by the Sterling
18 Heights Police Department.

19 A Yes.

20 Q And you said you're a sergeant.

21 A Yes, sir.

22 Q How long have you been a sergeant?

23 A It will be thirteen years this month.

24 Q And how long have you been with the Sterling Heights
25 Police Department?

1 A A little over twenty years.

2 Q Any other law enforcement training?

3 A Approximately, two years with Harper Woods Police
4 Department and I worked for the City of Detroit for
5 two years.

6 Q In the abundance of discovery your attorney, Mr.
7 Kaszubski, was gracious enough to provide me --

8 MR. KASZUBSKI: Kaszubski.

9 MR. MCQUEENEY: Sorry.

10 MR. KASZUBSKI: That's fine. Just call me
11 Marc.

12 MR. MCQUEENEY: Marc.

13 BY MR. MCQUEENEY:

14 Q It says that you left Detroit at some point. Why
15 did you leave Detroit?

16 A I think it was a long term family plan. What I was
17 most concerned with -- Realizing at the time that we
18 had to live in the city of Detroit, I was concerned
19 about raising a family in Detroit. So I think
20 ultimately my game plan was to leave there.

21 Q And that's when you took a position at Harper Woods?

22 A Yes, sir.

23 Q You said you were at Harper Woods for two years.
24 What was your position at Harper Woods Police
25 Department?

1 A I was a police officer.

2 Q Okay. Road patrol?

3 A Yes, sir.

4 Q And why did you leave Harper Woods to come to
5 Sterling Heights?

6 A Probably to work for one of the best departments
7 around. Harper Woods is very small, 2.2 square
8 miles, and I saw coming out to Sterling Heights that
9 there was a lot more opportunities for me.

10 Q Okay. In the discovery that was provided it says
11 you have not been disciplined in any fashion as a
12 law enforcement officer for the Sterling Heights
13 Police Department. Is that accurate?

14 A Yes, sir.

15 Q Have you ever been disciplined as a law enforcement
16 officer for Harper Woods?

17 A No, sir.

18 Q How about for the city of Detroit?

19 A No, sir.

20 (Whereupon, Plaintiff's Deposition Exhibit
21 Number One was marked for identification.)

22 BY MR. MCQUEENEY:

23 Q Okay. Sergeant, I'm handing you Plaintiff's Exhibit
24 Number One. First of all, before I ask you any
25 questions from it, do you acknowledge that there are

1 seven pages contained within the exhibit?

2 A That's correct, sir. There is seven pages.

3 Q And do you recall the date of going to Mr. Gojcaj's
4 home to investigate an incident?

5 A It would be on October 30, 2007.

6 Q All right. And on that date were you a sergeant
7 with the Sterling Heights Police Department?

8 A Yes, sir.

9 Q Okay. And what time did you arrive there?

10 A Approximately, at 9:50 in the morning.

11 Q Okay. And is that the -- What's the address of the
12 residence you went to?

13 A The address was 43153 Penny.

14 Q Okay. Is that a single family dwelling or a
15 multiple family dwelling?

16 A Single family dwelling.

17 Q And were you in a marked unit?

18 A I believe I was in a semi-marked unit.

19 Q What's a semi-marked unit?

20 A Usually the lights are not on the top. The city of
21 Sterling Heights police markings are on the side.
22 Lights are on the front and the back.

23 Q Okay.

24 A The supervisors normally drive those cars.

25 Q All right. And was anybody else assigned to the

1 unit other than yourself?

2 A Assigned to the unit?

3 Q To that unit or the police unit -- the police
4 cruiser.

5 A No.

6 Q Okay. And when you arrived at this address on
7 Penny, was anybody else present?

8 A Upon my arrival I was greeted by a detective from
9 Clinton Township.

10 Q What was his name?

11 A It was Detective Melise.

12 Q Okay. Did you talk to Mr. Melise prior to your
13 arrival?

14 A No, sir.

15 Q Okay. Were you already out on the roadway and was
16 dispatched to this location?

17 A Yes.

18 Q Okay. And did any other Sterling Heights police
19 officers, other than yourself, come to the
20 residence?

21 A Officer Fett and Officer Burgess.

22 Q Okay. When you arrived was Officer Fett and/or
23 Officer Burgess were they present or either one of
24 them present?

25 A I believe I was the first one on the scene.

1 Q Okay. And you said Detective Melise was already
2 present.

3 A Correct.

4 Q Okay. Did you have a conversation with Detective
5 Melise?

6 A I did.

7 Q Okay. Did you have any conversation with dispatch
8 as to why you were being dispatched to this
9 location?

10 A I did.

11 Q What were you told was going on there?

12 A The original information that I got came from the
13 resident that lived at the Penny address. She
14 called our dispatch indicating that a strange man
15 was knocking on her door and she didn't know who it
16 was.

17 Q Okay. And did you determine that the strange man
18 was Detective Melise?

19 A Correct. Then we had the second call into our
20 dispatch and it was him calling our dispatch
21 advising us why he was there.

22 Q Okay. So I can get a timeline, there was a call
23 from the residence saying a strange man was there,
24 to dispatch, and you were dispatched out to
25 investigate the estranged person?

1 A Correct.

2 Q And then Detective Melise then called dispatch and
3 said he was at the residence?

4 A Yes, sir.

5 Q Okay. To your knowledge, was there any other
6 communication between the Clinton Township Police
7 Department and your department that Detective Melise
8 would be out at that residence at that time in the
9 morning?

10 A Not that I'm aware of.

11 Q Okay. And what did you learn from Detective Melise?
12 Why he was there.

13 A Detective Melise responded to the address to
14 investigate defrauding an innkeeper complaint.

15 Q Okay.

16 A Apparently, they got a suspect and a suspect
17 vehicle. The vehicle had been parked in the
18 driveway and they believe that Mr. Gojcay, Victor
19 Gojcay, was the responsible one that ran out on the
20 bill.

21 Q Okay. And so where did Detective Melise say this
22 purported defrauding an innkeeper occur? Did it
23 occur in Sterling Heights or?

24 A It would have been in Clinton Township and I don't
25 remember the specific place.

1 Q Okay. And did he give you any other particulars,
2 other than the name of the person that he was
3 investigating? Any other information.

4 A No, not that I remember. No.

5 Q Okay. Did you have any information about that
6 residence or the occupants of that residence prior
7 to your arrival?

8 A No, sir.

9 Q Okay. What did you do after you talked to Detective
10 Melise?

11 A I went up to the residence and tried knocking on the
12 door.

13 Q Okay. And why did you do that?

14 A To make contact with the homeowner. The resident
15 there.

16 Q Okay.

17 A And advise them of why Detective Melise was there.

18 Q Okay. And was there an immediate response?

19 A No, there was not.

20 Q Okay. What did you do after you knocked on the door
21 and announce your presence?

22 A I continued to knock on the door and then finally
23 Ms. Gojcaj -- Gojcaj is it? Ms. Perovich. I'm
24 sorry. She was later identified as Maria Perovich.
25 She was at the door. She opened up the door a

1 little bit. She was still on the phone with our
2 dispatch and I was trying to tell her to come out
3 and talk with me and at one point in time I got my
4 dispatch on the radio and said could you have her
5 hang up the phone with you. I'm here. Please have
6 her come out and talk with me.

7 Q Okay. So you said she was still on the phone, but
8 she was at the front door.

9 A Correct.

10 Q So did she have a portable phone or what type of
11 phone did she have? Could you see?

12 A I really don't recall what she had. I'm assuming it
13 was portable because she was in the vestibule right
14 there.

15 Q Okay. And you said she was at the front door. Are
16 there one door or two doors at the front entryway?

17 A There were two doors. A screen door and another
18 door.

19 Q Okay.

20 A Like this door.

21 Q Okay. And was either of the doors open when you saw
22 her on the cell phone?

23 A Gosh, I don't remember. At one point in time she
24 opened the wooden door just partially. It was
25 partially opened.

1 Q The main door?

2 A Yes, not the screen door, but the main door, yes.

3 Q Okay. And you told her to hang up the phone?

4 A Yes.

5 Q Okay. When you first knocked at the door before you
6 saw her on the phone and everything and you
7 announced your presence, who was present? Was it
8 yourself, Detective Melise and the other two
9 officers, Fett and Burgess?

10 A Yeah, I'm not sure when Officer Burgess showed up.
11 I know Officer Fett was there at the door with me.

12 Q Okay. And is there a porch to this single family
13 residence?

14 A Yes, there was.

15 Q Okay. Do you step up on steps to get onto the porch
16 or how was it, do you recall?

17 A No, I really don't.

18 Q Okay. Is it a large porch?

19 A No, not very large. I -- By standards are we
20 looking for feet or --

21 MR. KASZUBSKI: I don't want you to guess at
22 it, but if you can give him a rough estimate.

23 THE WITNESS: It was relatively small.

24 BY MR. MCQUEENEY:

25 Q Relatively small.

1 A Sure.

2 Q Okay. So when you're on the porch, was the
3 remaining other officers -- I know you say you don't
4 know if Officer Burgess was there yet.

5 A Correct.

6 Q Was Officer Fett and Detective Melise on the porch
7 with you also?

8 A No.

9 Q Okay. Who was on the porch, other than yourself?

10 A Just me --

11 Q Okay.

12 A -- on the porch.

13 Q Where was Officer Fett?

14 A Somewhere to my rear behind me.

15 Q Okay. Did you glance around to see where she was?

16 A I don't really recall specifically where she was.

17 She was behind me. I was more dealing with

18 everything in front of me.

19 Q Okay. And where was Detective Melise?

20 A He was also behind me. Somewhere to my rear.

21 Q Okay. And so you testified that Ms. Perovich opened
22 the door, this wooden door, partially. Did she
23 eventually open it all the way?

24 A She did.

25 Q Okay. When did she eventually open it all the way?

1 A I'm not sure what you're asking me. When she did
2 it? I mean when I started to initiate a
3 conversation with her, she opened up the wooden door
4 all the way.

5 Q Okay.

6 A And then at one point in time she opened up the
7 screen door and was standing.

8 Q Okay. I'll get to the screen door --

9 A To talk to me.

10 Q -- in a second.

11 A Yeah.

12 Q You said she opened it partially. How long after
13 you started conversing with her did she open the
14 door all the way?

15 A Oh, it was less than a minute.

16 Q Okay. And when she opened that wooden door, was she
17 still in possession of the phone, if you recall?

18 A Gosh, I don't remember. I really don't. I think
19 she might have been, but I'm not positive.

20 Q Okay. And when she opened the wooden door and you
21 were on the porch, did you notice if Officer Burgess
22 had yet arrived?

23 A No, I don't remember when he got there.

24 Q At some point he did arrive.

25 A Right.

1 Q Okay. And when she opened the door all the way, the
2 wooden door, then eventually she opened the screen
3 door.

4 A Uh-huh.

5 Q How much longer after she had opened that wooden
6 door all the way to open the screen door?

7 A Again, it was a relatively short period of time.

8 Q Okay. Thirty seconds? A minute? Ten seconds?

9 A I couldn't put a time frame on it. It wasn't very
10 long though.

11 Q All right. When she opened that screen door, what
12 arm or hand did she use to open it up with?

13 A I'm pretty sure that would have been her right hand.

14 Q Okay. And did she come all the way out onto the
15 porch?

16 A She was standing in the threshold of the door.

17 Q Okay. What do you mean by that, please?

18 A Well, probably if the door closed, it would have
19 been right where the door was.

20 Q Okay. So at or near the door jam?

21 A Yes.

22 Q Okay. So was she partially on the porch and
23 partially in the home, if you recall?

24 A At that time she was right in the threshold by the
25 door jam.

1 Q Okay. And was there a conversation at that point?

2 A Yes.

3 Q And what was the nature of the conversation?

4 A We were explaining to her the nature of our visit.

5 I was advising her of who Detective Melise was.

6 That he was here to investigate a complaint and he

7 was looking for her son, Victor.

8 Q Okay. And did you hear Detective Melise suggest

9 that he was going to tow a vehicle?

10 A Yes.

11 Q What vehicle did he say he was going to tow?

12 A It was the vehicle that was in the driveway. I

13 believe the plate matched the suspect description in

14 the crime in Clinton Township.

15 Q Okay. You didn't have anything involving this

16 investigation, other than you were there at the

17 request of dispatch. Clinton Township didn't ask

18 you to get involved in the investigation of this

19 defrauding an innkeeper, did they?

20 A Well, my initial response to the run was to assist

21 the resident there, Maria Perovich. It was to help

22 her out.

23 Q Okay.

24 A 'Cause she was the one calling for our assistance.

25 I was there to help her. Our first notice that

1 Clinton Township was involved was when he called
2 dispatch and I received the information that there
3 was also a detective from Clinton Township out
4 there. So that was the first time that we had
5 understood why we were going there.

6 Q Okay. So at some point you said you had a
7 conversation with Detective Melise before he knocked
8 at the door and he told you that he was
9 investigating defrauding an innkeeper. Did he ask
10 you -- or request your assistance in this
11 investigation?

12 A Yes, he asked me to go up to the residence and
13 explain why we were there. I mean we had a
14 conversation why he was there.

15 Q Okay.

16 A So I mean I was kind of there to assist both of them
17 I guess.

18 Q What's the protocol for the Sterling Heights Police
19 Department in investigating an incident that does
20 not occur -- that did not occur in your
21 jurisdiction?

22 A Um.

23 Q Let me rephrase that. What's the protocol for the
24 Sterling Heights Police Department in investigating
25 a purported criminal incident that did not occur in

1 Sterling Heights' jurisdiction?

2 A I'm not sure what our protocols are, you know, as
3 far as the detectives going out. I mean I've
4 initiated complaints in other cities and I would
5 respond to the addresses.

6 Q Okay.

7 A And I think we are leading to this. I may or may
8 not let the department know why I'm coming there. I
9 mean it wouldn't be uncommon for Clinton Township to
10 say hey, this is why I'm going there, but a lot of
11 times the detectives don't do that. If it's
12 something that's being investigated like in a hot
13 pursuit kind of deal, like we're going right there -
14 -

15 Q Sure.

16 A -- or maybe a major felony, we'll definitely let the
17 city know that we're responding to it.

18 Q Okay.

19 A I can say, as a matter of principle, they don't
20 always notify us.

21 Q Okay. This wasn't a hot pursuit type of situation,
22 correct?

23 A Correct.

24 Q And there was no description that you received from
25 dispatch or from Detective Melise that a felony had

1 been committed, correct?

2 A Correct.

3 Q Okay. And so getting back to the door, you said
4 that Ms. Perovich opened the door partially, the
5 screen door, with her right hand. What was she
6 doing with her left hand?

7 A I don't remember.

8 Q Okay. And as you said -- or as you testified, you
9 heard Detective Melise say he was going to tow the
10 vehicle.

11 A Yes.

12 Q What was Ms. Perovich's response?

13 A She got extremely irate over that.

14 Q Okay. Do you recall what she said?

15 A She began yelling at us a lot, and at one point in
16 time, that had gotten her so upset that she said she
17 was going to go in the house and get her friggin gun
18 and she was going to shoot our ass.

19 Q Okay.

20 A Or something to that effect.

21 Q All right. And that's what your recall is?

22 A Yes, she said she was going to go in the house and
23 get a gun and shoot us.

24 Q Okay. Now, you prepared a report with respect to
25 this incident, correct?

1 A Uh-huh. Correct.

2 Q Okay. And how long after you showed up at the
3 house, how long later in the shift did you complete
4 your report?

5 A Relatively soon. Probably within the next hour,
6 hour and a half, or so.

7 Q Okay. Your report contains -- Your portion of
8 Exhibit One contains three pages, correct?

9 A Yes, sir.

10 Q Okay. And on the first page it says -- at the very
11 top of the page it says Incident Prosecution Report
12 I think. It might be slightly blacked out.

13 A Sure, that's what it says.

14 Q Okay.

15 A That's what it should say.

16 Q Okay. Then the next page it looks like some type of
17 a witness list, correct?

18 A Correct.

19 Q Okay. And then on the third page it's your
20 narrative report, right?

21 A Correct, sir.

22 Q Okay. And prior to becoming a police officer at the
23 Sterling Heights Police Department, you went through
24 an academy, correct?

25 A I did.

1 Q You learned report writing?

2 A Correct.

3 Q You learned how to use a firearm?

4 A Yes, sir.

5 Q You learned how to adhere to certain laws and rules
6 and regulations as to search and seizures, correct?

7 A Correct.

8 Q Okay. And when you learned your report writing, you
9 were told to prepare complete and accurate reports,
10 correct?

11 A Correct.

12 Q Because that could be used in criminal prosecutions
13 at some point, correct?

14 A Most definitely.

15 Q Okay. And in your report it says -- if you go to
16 the third full paragraph, it says I knocked on the
17 door and received no response. Do you see that,
18 Sergeant?

19 A Yes, sir.

20 Q At the very bottom of that paragraph it says Maria
21 stated. Do you see that?

22 A Uh-huh.

23 Q Is that a yes?

24 A Yes, sir.

25 Q Okay. And there's a series of quotation marks at

1 the beginning of where it says I'm going and at the
2 end where it says my property, correct?

3 A Yes, sir.

4 Q Because it's in quotation marks, is that what you're
5 indicating what Maria stated?

6 A It was my recollection of what she had stated to me,
7 yes.

8 Q Okay. Can you read that into the record what Maria
9 stated in those quotation marks.

10 A Yes, sir. Maria stated I'm going to go in the house
11 and get my friggin gun and shoot you if you don't
12 get off my property.

13 Q Okay. And that was, like you say, your recollection
14 within an hour or so after you cleared the
15 residence, correct?

16 A Yes, sir.

17 Q Okay. And when you met Maria Perovich, was she an
18 elderly woman?

19 A She was in her late fifties.

20 Q Late fifties. Okay.

21 MR. PEACOCK: A young woman.

22 THE WITNESS: By standards I hope that's not
23 elderly.

24 MR. MCQUEENEY: A young woman.

25 MR. PEACOCK: Yes.

1 MR. MCQUEENEY: Okay. I'm sorry, Mr. Peacock.

2 MR. PEACOCK: Just remember that. In her
3 fifties she's a young woman.

4 MR. MCQUEENEY: All right.

5 MR. PEACOCK: And that's on the record.

6 BY MR. MCQUEENEY:

7 Q And did she have a walker with her?

8 A Not that I recall.

9 Q Not that you recall. Okay. Did she -- Was she a
10 large woman?

11 A She looked to be a little bit overweight, yes.

12 Q Okay. And could you tell if she had any physical
13 infirmities or any problem walking or?

14 A No. Not at that time, no.

15 Q Okay. Did there appear to be any like language
16 barrier between you and Ms. Perovich?

17 A No, she spoke with a heavy accent, but I understood
18 everything she was telling me.

19 Q Okay. When she stated, according to your report,
20 I'm going to go in -- to go in the house and get my
21 friggin gun and shoot you if you don't get off my
22 property --

23 A Right.

24 Q -- she didn't show you a gun, right?

25 A No, sir.

1 Q Okay. At any time during this whole incident from
2 the start until ultimately you left and went back to
3 give your report, you didn't have a search warrant,
4 right?

5 A Correct.

6 Q You didn't have an arrest warrant, correct?

7 A Correct.

8 Q Neither did any of the other officers have either of
9 those warrants, if you know?

10 A Correct.

11 Q Okay. And after -- When she made that statement I'm
12 going to go into the house and get my friggin gun,
13 was she still at that door jam or was she out on the
14 porch?

15 A She was still in the door jam.

16 Q Had she ever come out onto the porch?

17 A I believe she -- At that time no, not really. I
18 mean maybe a step at most.

19 Q Well, can you go back to that paragraph we just went
20 over a minute ago and where it says -- it starts off
21 I knocked on the door and received no response.

22 A I knocked on the door. Yes. That paragraph there.

23 Q All right. Look at the line -- it would be starting
24 at line ten, I was advising her of the nature. Do
25 you see that? It starts at line ten.

1 A Yes.

2 Q Okay. I was advising her of the nature of Clinton
3 Township's investigation when she came out onto the
4 porch.

5 A Okay.

6 Q Did she come out onto the porch?

7 A Maybe by a step.

8 Q Okay.

9 A It was the most she had gotten out.

10 Q Okay. I don't understand by a step.

11 A I guess if the answer is either yes or no, then I
12 guess yes, she did step out onto the porch.

13 Q Okay. And is that when she made the statement I'm
14 going to go into the house and get my gun?

15 A Well, I mean she kind of had one foot out. I guess
16 yeah, she would have been out on the porch or in the
17 door jam. To me I mean the location was so close
18 that being out on the porch or in the door jam was
19 all part of the same thing.

20 Q All right.

21 A So was she out on the porch. Maybe by a step at
22 most. Maybe she had one foot out.

23 Q Okay. And she hadn't committed a criminal act up
24 until that point in your presence, correct?

25 A Up until what point?

1 Q Up until the point when she was out on the porch.

2 A When she says she's going to go in the house and get
3 her gun and she's going to shoot me, at that point I
4 took that as a very unlawful threat. I thought she
5 had the ability to carry that out and as far as I
6 was concerned that was a crime.

7 Q Well, if she says I'm going to go into the house and
8 get a gun and shoot you --

9 A Yes.

10 Q -- is that a crime?

11 A Yeah, she has the apparent means to carry that out,
12 and if it's possible for her to do that, yes, it is.

13 Q Okay. But she didn't have a gun in her hands,
14 correct?

15 A Correct.

16 Q A sweep of the house was done and nobody found a
17 firearm, correct?

18 A After the fact?

19 Q After the fact.

20 A Yes, sir.

21 Q Okay. And --

22 A In the general vicinity where we looked. We didn't
23 conduct a search of the house. We conducted, you
24 know, within the reach of her grasp and in the area
25 where we had under control and the living room and

1 stuff to make sure that the scene was safe, but we
2 didn't conduct a search of the house to make sure
3 that there wasn't a gun.

4 Q Okay. Why not if you feared that she was going to
5 shoot you? Why not search for a firearm?

6 A At that time we would have needed a search warrant
7 to conduct that search.

8 Q Okay. But you came into the house anyways, correct?

9 A Eventually, yes.

10 Q Okay. And a threat in and of itself is not a crime,
11 correct?

12 A Correct.

13 Q If I say Sergeant Cattaneo, I've got a gun right
14 here, I'm going to shoot you, that's not a -- that's
15 not a crime.

16 MR. KASZUBSKI: Objection. It calls for a
17 legal conclusion. You can answer if you know.

18 THE WITNESS: I don't believe that's a -- If
19 she had the apparent means to carry that out, then
20 it would be a crime.

21 BY MR. MCQUEENEY:

22 Q No, I'm talking about myself. If I say I'm going to
23 shoot you or I mean --

24 A If you said right now I'm going to shoot you? I'm
25 going to kill you?

1 Q Yeah.

2 A No.

3 Q Okay. Now, if I reach into my pocket and I point my
4 finger like that and I say I'm going to shoot you --
5 shoot you in the head, that's a crime, right?

6 A I would agree.

7 Q Okay. Ms. Perovich never made any motions to
8 suggest she had a firearm with her, correct?

9 A I would disagree with that from the simple
10 standpoint that when she pushed me aside, assaulted
11 me, and made a break to go back in towards the
12 house, I was a firm believer that there was a weapon
13 and that's what she was going to do.

14 Q Okay. But you didn't know anything about her prior
15 to going to the house, correct?

16 A Correct.

17 Q So aren't you just speculating that she had a gun
18 and she's going to go in and get it and shoot you?

19 A Well, I think I based my opinions based on several
20 observations of her character and her attitude at
21 the time. I realized that she was not a very
22 rational person, and the more irrational that she
23 got, I believed that she was very capable of going
24 inside that house and getting a gun. So I assessed
25 -- I made my assessments of her character and her

1 personality that yes, she was very capable of going
2 into the house and getting a gun and -- I mean a
3 very sane person would not sit there and tell a
4 police officer she's going to go in the house and
5 get a gun and shoot them. So --

6 Q Are you suggesting she was insane?

7 A I was saying she was not rational.

8 Q Okay. What's the protocol for handling a situation
9 where a person's not acting rational? What's the
10 protocol for the Sterling Heights Police Department?

11 A It would depend on the circumstances.

12 Q In your discovery your attorney has graciously
13 provided it appears that you've received some swat
14 team training, correct?

15 A Correct.

16 Q And, in fact, you've received an abundance of swat
17 team training, correct?

18 A Seven years.

19 Q Okay. And are you the head of the swat team unit
20 for the Sterling Heights Police Department?

21 A No, sir.

22 Q Who's the head of the unit?

23 A It would be Glen French, Sergeant.

24 Q Okay. You could call upon the swat team in
25 emergency situations, correct?

1 A Yes, sir.

2 Q And you didn't do that in this situation, correct?

3 A No, sir.

4 Q Okay. You could have also left the area, correct?

5 A No, sir, I disagree with that.

6 Q Well, she didn't have the gun right there, correct?

7 A She could have had it very well within her reach. I
8 mean she was in the door jam. I didn't have a clear
9 view of everything inside the house.

10 Q Okay.

11 A She had made a threat to use a gun on me. There
12 could have been one right around the corner where I
13 couldn't see. I mean she could have reached right
14 down and grabbed a gun. I felt us backing up and
15 walking away from that situation was more dangerous
16 for me. It was more dangerous for her.

17 Q Well, you came into the home and she's made a threat
18 and you felt it was a credible threat, aren't you
19 putting yourself in harm's way?

20 A I believe I was making that situation safer for
21 myself and for her.

22 Q Safe for her?

23 A Sure.

24 Q How is it safe for her?

25 A Because if she comes up with a gun, she's going to

1 have to get shot.

2 Q You didn't have your firearm drawn, correct?

3 A At that point, no.

4 Q Did you ever draw your firearm that day?

5 A No, I don't believe so.

6 Q Okay. So you couldn't have felt in that much of a
7 danger if you didn't draw your firearm, right?

8 MR. KASZUBSKI: Object to form. Go ahead.

9 THE WITNESS: Pardon me.

10 MR. KASZUBSKI: You can answer. Go ahead.

11 THE WITNESS: I did feel threatened, but just
12 because I felt threatened didn't mean I didn't have
13 to have my firearm out.

14 BY MR. MCQUEENEY:

15 Q Well, you've been threatened to be shot --

16 A Uh-huh.

17 Q Is that a yes?

18 A Yes, sir.

19 Q I'm just doing that -- I'm not trying to give you a
20 hard time.

21 A No, I'm good.

22 Q She's just taking down everything. You're
23 threatened to be shot, you carry your firearm,
24 correct?

25 A Yes, sir.

1 Q You carry a taser, correct?

2 A Yes, sir.

3 Q Okay. And you didn't pull either of them out,
4 right?

5 A Correct.

6 Q Okay. Now, you suggest that Ms. Perovich pushed
7 you, correct?

8 A Yes, sir.

9 Q Okay. What arm did she use to push you?

10 A I believe it was her right arm.

11 Q Okay. So would she have been all the way out on the
12 porch now and the door -- the screen door was closed
13 or how does that work?

14 A Well, she was holding over the screen door with her
15 right hand.

16 Q Okay.

17 A I was standing just outside of that. Not exactly
18 propping the screen door open with my body, but
19 definitely in the way if it would have closed.

20 Q Okay.

21 A So at one point in time she decides to turn around
22 and make a break for the house. I attempted to
23 detain her. I believe I put -- I was trying to
24 figure out the way we did this and I ascertain that
25 I grabbed -- put my hand on her arm to detain her

1 and she pushed me away.

2 Q She pushed you away.

3 A Yes.

4 Q Did you fall down?

5 A No, sir.

6 Q Okay. And you've described her as a large woman.

7 A Yes, sir.

8 Q Okay. And you felt that she was going to be able to
9 turn and in a moment's notice be able to get into
10 the house and get a gun?

11 A Absolutely.

12 Q Okay.

13 (Whereupon, Plaintiff's Deposition Exhibit
14 Number Two was marked for identification.)

15 BY MR. MCQUEENEY:

16 Q Sergeant, I'm handing you Plaintiff's Exhibit Number
17 Two. First of all before we start going over the
18 exhibit, would you acknowledge it's fourteen pages.

19 A Yes, sir. Fourteen pages.

20 Q Okay. And on the fourteenth page it contains a
21 signature line for your signature. Is that your
22 signature, sir?

23 A Yes, sir.

24 Q Okay. And you swore to the statements contained
25 within this exhibit, correct?

1 A Yes.

2 Q Okay. Sergeant, please turn to page eight,
3 paragraph ten.

4 A Question ten?

5 Q Yeah, I'm sorry. Question ten, correct. Do you see
6 that?

7 A Yes, sir.

8 Q Okay. And you see the answer below. This defendant
9 objects to this request. Do you see that?

10 A Yes.

11 Q Okay. And read the entire answer to yourself and
12 I'm going to ask you a couple of questions as to
13 your answer, okay.

14 A Sure. Okay, sir.

15 Q Okay. Prior to -- You didn't type this out,
16 correct?

17 A No, sir.

18 Q Okay. Prior to --

19 MR. KASZUBSKI: For the record, Patrick, this
20 was obviously prepared with my assistance. I don't
21 think Sergeant Cattaneo would even know what the
22 objections were about or what these objections are
23 and I don't think he probably wrote this.

24 MR. MCQUEENEY: I don't know if he would, but
25 thank you for your assistance, Mr. Kaszubski.

1 MR. KASZUBSKI: Kaszubski.

2 BY MR. MCQUEENEY:

3 Q But, anyways, prior to you signing page fourteen,
4 like you said that your signature's on that, you
5 reviewed all your answers, right?

6 A I did.

7 Q Okay. And on the answer to question ten it says
8 related to entry into the home after Ms. Perovich
9 announced she was going to get her gun and assaulted
10 a police officer. Do you see that? Do you see
11 that answer? I know I'm not reading the entire
12 answer, but do you see that statement?

13 A Without waiving said objection where it continues
14 there?

15 Q Yes.

16 A Yes.

17 Q That line before.

18 A The line before it?

19 Q Yes, Ms. Perovich announced she was going to get her
20 gun.

21 A Yes.

22 Q Okay. You would agree there's nothing contained
23 within your answer that references that she's going
24 to get her gun and shoot you, right?

25 A I'm not sure what you're asking me.

1 MR. KASZUBSKI: Again, Patrick, if you
2 remember, as I said, I signed that as to the
3 objections and that's part of the objection.

4 MR. MCQUEENEY: Okay.

5 BY MR. MCQUEENEY:

6 Q Well, in your police report on page three of your
7 report, we've already gone over this, you've got it
8 in quotes, I'm going to the -- going to go into the
9 house and get my friggin gun and shoot you if you
10 don't get off my property. You've attributed that
11 statement to Ms. Perovich and I'm asking you in
12 here, in your answer, you said related to entry in
13 the home after Ms. Perovich announced she was going
14 to get her gun and assaulted a police officer.

15 A Uh-huh.

16 Q There's nothing referenced that she was going to get
17 the gun and shoot you in that answer, correct?

18 THE WITNESS: I'm sorry, Marc. I'm not
19 understanding his question at all.

20 BY MR. MCQUEENEY:

21 Q Is there anything in that answer to question number
22 ten that references that Ms. Perovich was going to
23 shoot anybody?

24 A I see what you're saying. This was a paraphrase of
25 the police report, okay. Is there anything that

1 says in here that she's going to shoot me in that
2 statement?

3 Q Right.

4 A Oh, okay. I understand. No.

5 Q Okay.

6 A Okay.

7 Q All right. Thank you. And then continuing on
8 paragraph eleven and twelve starting on page eight
9 and page nine of the exhibit, could you read your
10 answers to question number eleven and question
11 number twelve to yourself and then I'm going to ask
12 you a couple of questions, please.

13 MR. KASZUBSKI: And while you're reading, I'll
14 just place the objection. Again, those are my
15 objections that were prepared by counsel as
16 indicated in the answers to discovery at the very
17 beginning and weren't signed as per the objections.
18 Mr. McQueeney, you're asking him a question saying
19 are those his answers. Well, that was part of my
20 objections. But, whatever, you've got my objection.

21 MR. MCQUEENEY: All right. I understand.
22 Thank you.

23 THE WITNESS: Okay, sir.

24 BY MR. MCQUEENEY:

25 Q Okay. You've read both the answer to question

1 eleven and question twelve?

2 A Correct.

3 Q Okay. Thank you. Same sets of questions. In the
4 answer to question eleven there's no reference that
5 Ms. Perovich announced she threatened to get her gun
6 and then shoot you, right?

7 A That's correct. These are paraphrases summarized by
8 my attorney in this preparation to my responses to
9 your request for information, so.

10 Q Okay.

11 A So it was done through Marc.

12 Q Right, I understand that and I'm certainly not going
13 to ask you what Marc told you or anything like that,
14 but you did say -- and I know we covered this, but
15 you did say you signed your answers to
16 interrogatories.

17 A Yes.

18 Q So you had an opportunity to read them, right?

19 A I did.

20 Q Did you instruct anybody to put in there that Ms.
21 Perovich said she was going to go in the house, get
22 my friggin gun and shoot you if you don't get off my
23 property?

24 A Did I instruct him to put that in there?

25 Q Yes. Did you tell your attorney to put that in

1 there?

2 MR. PEACOCK: Well, hang on a minute. That's
3 attorney/client privilege.

4 MR. KASZUBSKI: Yeah, that's attorney/client
5 privilege, number one.

6 MR. MCQUEENEY: I don't know if that's --

7 MR. KASZUBSKI: Are you asking him to say what
8 he told me?

9 MR. MCQUEENEY: Yeah.

10 MR. KASZUBSKI: It's attorney/client
11 privilege.

12 MR. MCQUEENEY: I don't believe it is, but.

13 MR. KASZUBSKI: I'm going to instruct you not
14 to answer that question for sure.

15 MR. MCQUEENEY: Okay.

16 MR. KASZUBSKI: And I'd also refer you to
17 question fifteen where the question of what exactly
18 occurred happens and it refers you to the police
19 report.

20 MR. MCQUEENEY: Okay.

21 MR. KASZUBSKI: So I mean the questions you're
22 asking is there a policy in place. Those questions
23 are dealing with that type of issue, Patrick.

24 MR. MCQUEENEY: I understand.

25 MR. KASZUBSKI: Not dealing with what happened

1 that night. So if you look at paragraph fifteen,
2 which is that question that you are --

3 BY MR. MCQUEENEY:

4 Q But there's no reference in these answers to eleven
5 or twelve about any shooting of yourself or anybody
6 else, right?

7 A Correct.

8 Q Okay. Sergeant, same exhibit and turn to page ten,
9 paragraph sixteen. Please read the questions and
10 your answer also.

11 A Okay, sir.

12 Q Okay. You've read the answer and it says Ms.
13 Perovich -- Do you see where it says Ms. Perovich
14 threatened to get her gun and assaulted me slash --
15 I guess it's slash pushed me in what appeared to be
16 an attempt to carry out her threat? Do you see that
17 statement?

18 A Yes, sir.

19 Q Okay. There's no reference to getting a gun and
20 shooting you in this answer, correct?

21 A Correct.

22 Q Okay. In your answer it says what appeared to be an
23 attempt to carry out her threat. Again, this is
24 pure speculation on your part as to what appears in
25 front of you, correct?

1 MR. KASZUBSKI: Objection to the form of the
2 question. I don't know what you mean by that. I
3 mean can you answer that? Do you know what he meant
4 by that?

5 THE WITNESS: I don't like his word
6 speculation. Again, stating from my training as a
7 police officer and my dealing with people,
8 speculation, I didn't like that word being used
9 because again my assessment of her mental capacities
10 at that time was her irrational state, the fact that
11 she made a threat to a police officer. I took a
12 whole bunch of things into consideration that led a
13 little far beyond speculation. I mean it was her --
14 her irrational behavior towards threatening a police
15 officer. I mean normal people don't do that, say
16 they're going to go get a gun and shoot a police
17 officer. So to speculate I think takes the doubt in
18 that, and when she's doing that, it went beyond
19 speculation for somebody to say that. I really
20 believe that her telling me that and the way she
21 spun around quickly to make a break into the house
22 led me to believe that that's what she was doing. I
23 mean it was beyond speculation. I had reason to
24 believe that's exactly what was going on.

25 BY MR. MCQUEENEY:

1 Q Okay. I just picked up on something you said. You
2 said she spun around and went back into the house.

3 A Yes.

4 Q Okay. So when she spins around and went back into
5 the house, is she clearly on the porch at this
6 point, if you know?

7 A Again, you keep getting into this whether she was on
8 the porch. I mean one foot may have been out front.
9 She was in the threshold. It was the general area
10 of the threshold and the first half of step onto the
11 porch.

12 Q Okay.

13 A Specifically, exactly, you know, I thought she was
14 out onto the porch, but when she takes a step back
15 and starts making the break to go back into the
16 house, I believed it was a legitimate threat, a
17 legitimate opportunity for her to go in the house
18 and I tried to prevent her from doing that. I
19 believe there was negligent circumstance that
20 allowed me to go into that house and prevent that
21 from happening.

22 Q Okay. Negligent circumstance 'cause she committed a
23 crime at that point?

24 A She had committed a crime.

25 Q Okay. 'Cause she pushed you?

1 A Two crimes.

2 Q Two crimes. Okay.

3 A She had threatened me to go in the house, get a gun
4 to shoot me and I believe she had a reasonable
5 opportunity to carry that threat out.

6 Q Okay. But there were four officers out there,
7 correct?

8 A Yes, sir.

9 Q Three from your department and one from another
10 department, correct?

11 A Correct.

12 Q And you felt threatened by her that she's gonna spin
13 around and run into the house?

14 MR. PEACOCK: I'm just going to place an
15 objection. This is argumentative of this witness.

16 MR. KASZUBSKI: I'll join that.

17 MR. PEACOCK: It's asked and answered.

18 BY MR. MCQUEENEY:

19 Q You felt threatened that she was going to spin
20 around and run into the house and get a gun and
21 shoot you?

22 A Spin around and reach out to a table right inside
23 the door that I couldn't see. She made an overt
24 action to go into that house and turn around, and,
25 yes, I believe she was going to carry out her

1 threat.

2 Q Okay. There's a video camera. You later discovered
3 a video that faced out to the front of the house,
4 correct?

5 A Correct, I knew there was a camera out there.

6 Q Okay.

7 A And I later found a videotape.

8 Q Had you seen that before you entered the residence
9 or after you cleared the residence?

10 A I saw it up there.

11 Q Saw it up there when you came up to the home?

12 A Uh-huh.

13 Q Okay. Is that a yes?

14 A Yes, sir.

15 Q Okay. And you took the videotape, correct?

16 A I did.

17 Q Why did you take the videotape?

18 A As evidence.

19 Q As evidence as to what?

20 A A possible crime. To see what it had recorded.

21 There was a crime that had been committed and there
22 was a videotape of the incident.

23 MR. MCQUEENEY: Let's go off the record.

24 (Whereupon, there was a brief pause in the
25 proceedings.)

1 MR. MCQUEENEY: Before we get started let the
2 record reflect that the deposition is continued of
3 Sergeant Cattaneo. My client, Victor Gojcaj, has
4 left and has asked that I continue the deposition,
5 which I will do so in his absence.

6 BY MR. MCQUEENEY:

7 Q Sergeant, we're going to play a videotape. The
8 videotape, I believe, which was seized by yourself
9 and I will be asking questions from it.

10 (Whereupon, Mr. McQueeney plays the
11 videotape.)

12 BY MR. MCQUEENEY:

13 Q Sergeant, was that you that had the sunglasses on?

14 A That's me. The good looking fellow.

15 Q And then is that Detective Melise behind you?

16 A Yes, sir.

17 Q Okay. Is that Detective Melise talking?

18 A I couldn't hear it. That's me right there.

19 Q You're on the porch right now, even though you can't
20 see -- see you?

21 A Yes.

22 Q Okay. Is Melise on the porch, Detective Melise, if
23 you know?

24 A I couldn't tell you.

25 Q Who's walking up this way? It looks like a

1 uniformed officer. Can you tell?

2 A No, not really. That's Aaron.

3 Q Aaron.

4 A Burgess. Officer Burgess. Now Sergeant Burgess.

5 Q Now Sergeant Burgess. Okay. Is that you, Sergeant?

6 A Yes, sir.

7 Q Did you just open the screen door, if you know?

8 A I don't remember. That's Officer Fett.

9 (Whereupon, Mr. McQueeney stops the
10 videotape.)

11 BY MR. MCQUEENEY:

12 Q When you saw the hand gesturing, do you know what
13 hand that was? Was that the right hand or left hand
14 of Ms. Perovich?

15 A I believe it was the right. If you could play it
16 again, I'll take another look.

17 Q Okay. Were you still on the porch at that time?

18 A I believe so.

19 Q Anybody else --

20 (Whereupon, Mr. McQueeney plays the
21 videotape.)

22 THE WITNESS: Yeah, that's the right hand.

23 (Whereupon, Mr. McQueeney stops the
24 videotape.)

25 BY MR. MCQUEENEY:

1 Q Okay. Sergeant, I didn't see a push. When did the
2 push occur?

3 A Well, what happened there was she started yelling at
4 me. She's yelling and screaming at me, and, boom,
5 she cuts off the conversation.

6 Q Okay.

7 A Makes the turn to go back into the house and with
8 her threat and her going to get that gun, the way
9 she abruptly ended that conversation, in my mind she
10 had had enough, she was going in the house, she was
11 going to grab that gun and I wasn't going to let her
12 do that. So when she turned around to walk back
13 into the house, I put one arm -- hand on her arm to
14 try and detain her and she pushed me away.

15 Q She pushed you away with what arm?

16 A I believe it would have been her right hand.

17 Q You're not certain of that?

18 A I'm not 100 percent positive, but I believe that's
19 the way it went.

20 Q So are you suggesting that the push occurred after
21 she turned and walked into the residence?

22 A Correct.

23 Q Okay.

24 A I mean I'm still in the door jam. I hadn't made
25 entry into the house.

1 (Whereupon, Mr. McQueeney plays the videotape
2 and stops it.)

3 BY MR. MCQUEENEY:

4 Q Sergeant, could you hear the statements by Ms.
5 Perovich?

6 A Yes.

7 Q Could you hear that she said I'm going to go get my
8 gun and shoot you?

9 A No.

10 Q Okay. And you're still standing there after she
11 made that statement, correct?

12 A Correct.

13 Q Okay.

14 (Whereupon, Mr. McQueeney plays the
15 videotape.)

16 BY MR. MCQUEENEY:

17 Q It doesn't look like you're in any hurry to get in
18 the residence, correct?

19 A At that point, no. I was moving slow.

20 (Whereupon, Mr. McQueeney stops the
21 videotape.)

22 BY MR. MCQUEENEY:

23 Q What's that?

24 A I said I was moving pretty slow. I mean at a
25 reasonable pace.

1 Q Okay. And you're following her immediately into the
2 residence, correct?

3 A Yes.

4 Q Okay. At that point you could have left, correct?

5 A No, sir.

6 Q No. You're on the front porch. She's not in the
7 home. She's out on the porch. You could have left
8 the residence. She hadn't done anything wrong at
9 that point, correct?

10 A I disagree.

11 Q You disagree.

12 A I would say I had been verbally threatened and she
13 was going to carry out that threat when she turned
14 to go inside the house, and then once I got pushed,
15 there was an assault that had taken place and at
16 that point in time I was going to take her into
17 custody.

18 Q She was never convicted of the assault, correct?

19 A I don't remember what --

20 MR. PEACOCK: Objection to foundation.

21 THE WITNESS: -- what the final court
22 disposition was. I know she pled guilty or no
23 contest to charges --

24 BY MR. MCQUEENEY:

25 Q Okay. Do you recall?

1 A No.

2 Q Look at paragraph -- Look at question sixteen and
3 the answer to that on page ten of Exhibit Number Two
4 again, please.

5 A Okay, sir.

6 Q Okay. And does it refresh your recollection as to
7 what she pled -- struck a deal with and pled guilty
8 to?

9 A She pled no contest to a lesser included offense of
10 attempting and resisting and obstructing a police
11 officer.

12 Q She didn't plead to an assault, correct?

13 A Correct.

14 Q Okay.

15 A And the only thing I want to say about that for the
16 record is that what the prosecutor ultimately lets
17 her plead to it's what she was charged with at the
18 time that she had committed that felony. I had
19 probable cause to believe she had committed that
20 felony and that's what she was arrested for.

21 Q Okay. But she wasn't convicted of a felony, right?

22 A Correct.

23 Q Okay.

24 (Whereupon, Plaintiff's Deposition Exhibit
25 Number Three was marked for identification.)

1 BY MR. MCQUEENEY:

2 Q Sergeant, I've handed you Plaintiff's Exhibit Three.
3 First of all before we ask questions of this
4 exhibit, would you please acknowledge that there are
5 eighteen pages contained within the exhibit.

6 A Eighteen pages, sir.

7 Q Thank you, sir. Sergeant, understanding you've
8 probably never seen this before, turn to page five
9 of the exhibit.

10 MR. PEACOCK: Just for the record, can you
11 tell me what this is.

12 MR. MCQUEENEY: This, for the record, Mr.
13 Peacock, is a transcription that I ordered at the
14 last deposition of Officer Fett of the verbal
15 transcription of what's on the videotape created by
16 Hanson Court Reporting.

17 MR. PEACOCK: Is there an affidavit with this?

18 MR. MCQUEENEY: I'm sorry.

19 MR. KASZURSKI: My objection is this is an
20 incomplete transcript. It has multiple locations
21 where it says indecipherable. Indecipherable voice
22 female. Human voice in the background. Human voice
23 indecipherable. This is not a true and accurate
24 representation of the transcription of what was on
25 that video. That's my objection to that.

1 MR. MCQUEENEY: I beg to differ. I mean it is
2 what she deciphered from the videotape. The
3 videotape has been admitted into evidence in Officer
4 Fett's deposition and --

5 MR. KASZUBSKI: Then we sure don't need the
6 transcript because the transcript isn't full. This
7 says indecipherable voices in background. What do
8 they say?

9 MR. MCQUEENEY: The transcript is what she
10 took off the videotape.

11 MR. KASZUBSKI: Well, then I guess we can take
12 her deposition, sure.

13 MR. MCQUEENEY: I don't have time to debate
14 it. I'm not going to debate it.

15 MR. KASZUBSKI: All right. Well, it's
16 incomplete so I object to it.

17 MR. MCQUEENEY: Good.

18 MR. KASZUBSKI: I mean are we going to have a
19 continuing objection of that I assume.

20 MR. MCQUEENEY: Sure.

21 MR. KASZUBSKI: Great.

22 MR. MCQUEENEY: You want one too, Pete?

23 MR. PEACOCK: Well, I do. I'm just trying to
24 find out, and, again, I don't know the exact
25 protocol for this, but I thought there was -- isn't

1 there an affidavit the court reporter gives when
2 they transcribe it?

3 THE COURT REPORTER: It's not certified
4 because she didn't take it. It's a transcription.

5 MR. KASZUBSKI: Based on what she could hear
6 at the time, sure. So it's based on her subjective
7 hearing. Gotcha.

8 MR. PEACOCK: I'll join the objections. Go
9 ahead, Pat.

10 MR. MCQUEENEY: Whatever.

11 BY MR. MCQUEENEY:

12 Q Okay. Back to page five, Sergeant, and I understand
13 you've never seen this before. Could you read to
14 yourself pages six through ten.

15 A Sure.

16 MR. KASZUBSKI: Lines six through ten.

17 BY MR. MCQUEENEY:

18 Q I apologize. Lines six through ten.

19 A I'm sorry. What page is that?

20 Q Page five, lines six through ten.

21 A Okay.

22 Q Have you read it?

23 A Yes, sir.

24 Q Okay. And you've heard what was stated on the tape.
25 I'm going to get my friggin gun and get you off my

1 premises.

2 A Yes, sir.

3 Q Okay. And that's what's contained on this
4 transcript?

5 A I believe so.

6 Q What you've just read.

7 A To the best of my recollection, yes.

8 Q Okay. And where is it that you heard -- You put in
9 your police report that I'm going to get my friggin
10 gun and shoot you. Where is this that you heard
11 that?

12 A Well, when I was out there at the scene and I was
13 speaking with Ms. Perovich when she uttered the
14 words that she did, that's exactly what I believed
15 her to be saying. In my mind that's what I had
16 heard her say and that's what I wrote down exactly
17 in my police report. Now, to go back in hindsight
18 reviewing the videotape, to review it over and over
19 again, because even after I heard it for the first
20 time, it sounded like I'm going to get my gun and
21 shoot your ass. That's exactly what I thought she
22 said, but she was saying premises.

23 Q Okay.

24 A So in her broken English at the time I understood
25 her to say what I had written down in my police

1 report. Now, to go back and review a videotape, is
2 it completely as accurate as my report, it's not,
3 but it was my state of mind to what I heard her say
4 at the time.

5 Q Okay. So your report may not be accurate then. Is
6 that what you're trying to tell me?

7 A It is a reflection of my recollection of the
8 incident shortly after writing the report and
9 shortly after the incident when I wrote the report.

10 Q But my question is is it an inaccurate or accurate
11 report? I know what your reflection is.

12 A It is a reflection of my recollection of the
13 incident shortly after writing the report.

14 (Whereupon, Plaintiff's Deposition Exhibit
15 Number Four was marked for identification.)

16 BY MR. MCQUEENEY:

17 Q Sergeant, I'm handing you Plaintiff's Exhibit Four
18 understanding we had copied. Does this look like
19 the entryway into the Perovich residence?

20 A I believe so, yes.

21 Q Okay. Do you see that front -- Do you see the door
22 to the left side of the picture, the photograph?

23 A Yes, sir.

24 Q Okay. Is that a wood door, if you know?

25 A I don't know.

1 Q Okay. And if you recall the front of the house, the
2 door -- obviously, the door opens in. Does that
3 porch, is that level with the floor or do you have
4 to step up or step down?

5 A I don't recall. I went -- No, I'd be guessing.

6 Q Okay. And when you were looking -- When you were at
7 the front door and you're looking in, could you see
8 what was in this picture? I guess the television or
9 stereo unit along the wall. Could you see that?

10 A No, I don't believe so.

11 Q All right. Could you see around the corner of the
12 door?

13 A To the right or to --

14 Q To the right.

15 A No.

16 Q Okay. Now, when you went into the residence, who
17 was the first one in?

18 A I was.

19 Q Okay. Who was the officer that went in after you
20 did?

21 A I believe Officer Fett was behind me.

22 Q Okay. And did Officer Burgess enter the residence
23 also?

24 A At some point in time he did, yes.

25 Q How about Detective Melise?

1 A I don't remember really when he went in.

2 Q If I show you the video, would that help you?

3 A Yeah, sure.

4 Q Okay.

5 (Whereupon, Mr. McQueeney plays the
6 videotape.)

7 THE WITNESS: Here it comes. Detective Melise
8 looks like he's the third one in. Now Officer
9 Burgess is coming in.

10 MR. KASZUBSKI: Are you guessing whether he
11 went in? Did you see it?

12 THE WITNESS: Yeah, I mean I'm assuming. I'm
13 making an assumption and I probably shouldn't do
14 that, but.

15 (Whereupon, Mr. McQueeney stops the
16 videotape.)

17 BY MR. MCQUEENEY:

18 Q Do you have any reason to believe he didn't go into
19 the residence?

20 A And, again, I don't have any reason to believe that
21 he did. I mean according to the tape it looks like
22 a probability that he did, but could I say that he
23 did or not, I don't know.

24 Q Well, you said it was a relatively small porch. Did
25 he step off the porch when you went into the

1 residence?

2 A You know, I don't know. My mind was focused on Ms.
3 Perovich and --

4 Q Okay.

5 A -- like I say, that's why I wasn't sure when anybody
6 came in the house.

7 Q And what happened when you went into the residence?
8 Did you attempt to arrest Ms. Perovich?

9 A I did.

10 Q Okay. What did you do?

11 A I placed one hand on her. She pushed me away. She
12 tried to continue going straight into the house and
13 she threw herself down on the ground.

14 Q Okay. What do you mean she threw herself down on
15 the ground? Describe that for me.

16 A She literally went limp on her body and just went
17 down to the ground. I mean nobody touched her.
18 Nobody pushed her. She didn't trip. That's why I
19 said man, this lady's gotta be crazy. I mean she
20 just threw herself down.

21 Q Okay. When she threw herself -- Well, are you
22 certain she threw herself down or could she have
23 lost her balance? You don't know, right?

24 A It looked to me like she just threw herself down to
25 the ground.

1 Q Okay. When she -- All right.

2 A I mean I was shocked. That's why you heard me say
3 this lady's gotta be crazy. She just throws herself
4 down.

5 Q Okay. She threw herself down. Did she throw
6 herself face down and land face first onto the
7 carpet or how did she land?

8 A I really don't remember. She was going forward so
9 she kind of went face down.

10 Q Okay. So she went face down. Did she use her hands
11 to break her fall?

12 MR. KASZUBSKI: I don't want you to speculate.

13 THE WITNESS: Yeah.

14 MR. KASZUBSKI: If you don't remember how she
15 went down, then say that.

16 THE WITNESS: Yeah, you know, I really don't
17 remember how she went down. I don't remember if she
18 used her hands to break her fall.

19 BY MR. MCQUEENEY:

20 Q Okay.

21 A And this was two and a half years ago.

22 Q I understand.

23 A So I'm doing the best I can.

24 Q Okay. And how far did she get into the house when
25 she threw herself down on the floor?

1 A She was probably even with the entertainment center
2 there.

3 Q Okay.

4 A Because we were confined in a very tight space
5 there.

6 Q Okay. So she hadn't made it too far into the home,
7 correct?

8 A Correct.

9 Q What did you do when she threw herself to the floor
10 near the front door? What did you do?

11 A Officer Fett and I attempted to place her into
12 custody and put handcuffs on her.

13 Q Okay. And understanding you don't recall whether
14 she fell face forward or where she landed, when she
15 was on the floor and you're trying to cuff her, was
16 she face down, on her side, or on her back?

17 A I really don't remember.

18 Q Okay. And what was Officer Fett doing when she was
19 trying to cover, or, well, when you were both trying
20 to cover?

21 A She was trying to assist me in getting her hands
22 behind her back.

23 Q Okay. And did she have her knee on her head? Did
24 Officer Fett have her knee on Ms. Perovich's head?

25 A No.

1 Q Did you have your knee in Ms. Perovich's back?

2 A No.

3 Q What were you doing, other than trying to handcuff
4 her?

5 A That was it.

6 Q How long were you in the residence before you
7 finally cleared the residence?

8 A How long were we in there before we cleared?

9 Q Correct.

10 A I have no idea.

11 Q Okay.

12 A Time wise, I don't know.

13 Q Okay. And what was Officer Burgess doing while you
14 were in the residence?

15 A At some point in time Victor had come around the
16 corner and he was standing in the living room and
17 Officer Burgess took control of him.

18 Q Okay. Did Officer Burgess draw his firearm?

19 A No, I don't believe so.

20 Q Did he draw his taser?

21 A I believe he did.

22 MR. PEACOCK: Mr. McQueeney, just for the
23 record, this is not a complete transcript of the
24 tape, this transcription.

25 MR. MCQUEENEY: I don't know. I believe it

1 is.

2 MR. PEACOCK: You think it is?

3 MR. MCQUEENEY: I believe it is.

4 MR. PEACOCK: Because it doesn't say here on
5 that last page end of tape or anything like that.
6 It doesn't identify it's the end of the tape.

7 MR. MCQUEENEY: I don't know. If you want to
8 depose her, go ahead.

9 MR. PEACOCK: No, I'm just trying to find out
10 what the length of this thing is.

11 MR. MCQUEENEY: I trust that it's a complete
12 what she understood was on the tape.

13 (Whereupon, Plaintiff's Deposition Exhibit
14 Number Five was marked for identification.)

15 BY MR. MCQUEENEY:

16 Q Sergeant, I'm handing you what's been marked as
17 Plaintiff's Exhibit Five. Okay. First of all,
18 would you acknowledge there's eight pages to the
19 exhibit.

20 A Yes, there are eight pages.

21 Q Okay. And they seem to be -- Well, does this look
22 like -- I know some of the pictures are fuzzy. Does
23 this look like Ms. Perovich?

24 A Yes.

25 Q Okay. And, as you testified, she's a relatively

1 large woman.

2 A Yes.

3 Q Obese.

4 A Large.

5 Q Okay. And this first page shows her holding up an
6 arm, correct?

7 A Yes, sir.

8 Q Would that be her right arm?

9 A Yes, sir.

10 Q Does it show -- It looks like there's a circle
11 around her elbow.

12 MR. KASZUBSKI: In ink.

13 THE WITNESS: That's the elbow?

14 BY MR. MCQUEENEY:

15 Q I think so.

16 A Oh, I thought that was -- Okay.

17 Q I don't know.

18 A I'm not sure.

19 Q Is it an elbow or --

20 A I couldn't tell if that was a tricep or an elbow.

21 Q Okay. Do you see the circle around the arm,
22 somewhere on the arm?

23 A I do.

24 Q Okay. I guess it's an ink circle or something.

25 A Yes, sir.

1 Q Did she complain of injuries to her right arm?

2 A No, sir.

3 Q Would you turn to the second page of the exhibit.

4 MR. PEACOCK: Mr. McQueeney, I'm just going to
5 place an objection to these photographs 'cause I
6 don't -- For foundational purposes because it
7 appears that on the bottom right on the page there's
8 a date of 3/4/2008. This incident occurred in
9 October of '07. So I'm just -- That's my objection.

10 MR. KASZUBSKI: I'll join in that objection.

11 MR. MCQUEENEY: Sure.

12 BY MR. MCQUEENEY:

13 Q On page two did you see the picture of Ms. Perovich?

14 A I did.

15 Q Okay. And do you see her lifting her right arm
16 again?

17 A Yes.

18 Q Do you see some faint bruises on that arm?

19 A Yeah, possible.

20 Q Okay. Did you grab her around the arm? You said
21 you had grabbed her around the arm, correct?

22 A Yes, sir. Yeah, that would be probably the spot
23 that I grabbed her from.

24 Q Okay.

25 A Yeah, that would probably be the one where she was

1 going into the house where I grabbed her.

2 Q All right. And then turn to the next page where it
3 says right hand.

4 A Yes, sir.

5 Q Okay. And did she complain that there was injuries
6 to her right hand?

7 A No, sir.

8 Q All right. Continue on to the next page where it
9 says right arm.

10 A Yes, sir.

11 Q Okay. Do you see the bruising on the arm?

12 A Yes, sir.

13 Q Is that about where you grabbed her on the arm, if
14 you know?

15 A I'd hate to speculate. I'm having trouble what arm
16 that is and exactly where on that arm is the bruise.
17 I mean it looks like a bruise on part of her body.

18 Q Did she complain of injuries to her back?

19 A Yes.

20 Q And who called the EMT's?

21 A I believe it was me.

22 Q Okay. And at that time you decided that you weren't
23 going to continue with the arrest of Ms. Perovich,
24 correct?

25 A Correct.

1 Q Okay. And other than complaining of the injuries to
2 her back, did she complain of any other injuries?

3 A Not at that time.

4 Q Not at that time. What did she complain of later?

5 A Nothing that I'm aware of.

6 Q Okay.

7 A The only thing I heard her complain about was her
8 back. No complaint of injuries later from these
9 pictures. I was unaware.

10 Q Okay. Did you help her off the floor?

11 A I don't -- I don't remember. I remember at some
12 point in time she -- we ended up sitting her on the
13 couch. She was okay to get up. She sat on the
14 couch and we got her a glass of water.

15 Q All right. Did the EMT officers come into the home
16 or did she leave the residence under her own power?

17 A I believe they came inside.

18 Q Okay. And was she transported to an ambulance, if
19 you recall?

20 A I don't recall.

21 Q Okay.

22 A Let me see what my report says. Maria is conveyed
23 to the Henry Ford Medical Center on 19 Mile for
24 examination.

25 Q You said she's on the floor and you and Officer Fett

1 are trying to handcuff her. How long was she on the
2 floor?

3 A Not very long. It was a very brief period of time.

4 Q Okay. What did you review in advance of your
5 testimony today?

6 A Police reports.

7 Q Okay. Anything else?

8 A My police report, specifically, and the previous
9 interrogatories. We reviewed the videotape.

10 Q Okay. When did you review the videotape?

11 A A couple of months ago.

12 MR. KASZUBSKI: You're the one that cancelled
13 the last dep.

14 MR. MCQUEENEY: Yeah, things come up.

15 MR. KASZUBSKI: I'm just saying.

16 BY MR. MCQUEENEY:

17 Q That's the only stuff you reviewed in anticipation
18 of your testimony today?

19 A The interrogatories we went over. My police report.

20 Q Okay. Did you --

21 A The tape.

22 Q -- review Officer Fett's police report?

23 A I think we had that at the last meeting when we did
24 the interrogatories the last time we met. I'm
25 trying to remember. I don't remember if I did or

1 not. I know I didn't today.

2 Q How about Officer Burgess's report, did you review
3 it?

4 A I don't recall if I did or not.

5 Q Okay.

6 A Back then.

7 Q Can you turn to his report in Exhibit Two. Officer
8 Burgess's report. I think it's the second to the
9 last page.

10 A Yes, sir.

11 Q Okay. Now, I understand that you didn't complete
12 the report. Read the third full paragraph. Well,
13 he's only got one page. Officer Burgess's. So it
14 would be the second to the last page of the exhibit.
15 Sergeant, read the third full paragraph. I think it
16 starts at line twelve or thirteen. Read that to
17 yourself.

18 A Okay.

19 Q Do you see where in lines fifteen and sixteen
20 Sergeant Cattaneo took hold of Perovich's arm; she
21 fell to the floor and began to scream? Do you see
22 that statement in Burgess's report?

23 A The last sentence?

24 Q Yes.

25 A Yes, sir.

1 Q The last sentence of the third paragraph.

2 A Yes, sir.

3 Q Okay. Did you talk to him about that statement?

4 A No, sir.

5 Q Okay. Did you talk to him about your testimony
6 today?

7 A No, sir.

8 Q Have you talked to Officer Fett about your testimony
9 at any time?

10 A No, sir.

11 Q You never talked about the case at all?

12 A No, sir.

13 Q Okay.

14 A The only thing I said to Officer Fett I asked her
15 how it went and she said it was fine. How her
16 deposition went. I think that was the extent of my
17 conversation with her.

18 Q Okay.

19 A She said you were tough, but it went well.

20 Q I'm a good guy. You didn't go with Ms. Perovich to
21 the hospital, correct?

22 A Correct.

23 Q Did you go after that back to the police department
24 and create your report?

25 A I did.

1 Q When you were attempting to handcuff Ms. Perovich
2 with Officer Fett, what were you doing? Were you
3 holding her down?

4 A No, we were just trying to get a handcuff on her
5 hand. We got one cuff onto I believe it was her
6 right hand and she started complaining of back pain.
7 So then I didn't want to aggravate any possible
8 injuries to her so we stopped at that point and took
9 the handcuffs off her.

10 Q Okay. Who took the handcuffs off of her?

11 A I don't remember.

12 Q Okay. And she's charged with resisting arrest,
13 correct? Resisting and obstructing arrest.

14 A Correct.

15 Q Okay. What was she doing to resist and obstruct
16 arrest?

17 A She pushed and assaulted me and tried to get back
18 into the house.

19 Q Okay. That's the extent of her resisting and
20 obstructing arrest?

21 A She pulled away, threw herself down onto the ground
22 and she was advised to place her hands behind her
23 back and she wouldn't do it.

24 Q Okay. Are you certain she heard those commands?
25 You're not certain of that, right?

1 A I guess that would be up to her to answer whether
2 she heard the commands or not.

3 Q She can't. She's dead.

4 A Obviously.

5 Q Right. She's screaming all this time, correct?

6 A Yes.

7 Q You heard that on the videotape, correct, that's
8 she's screaming quite loudly, right?

9 A Sure.

10 Q Okay. So you don't know whether she heard those
11 commands, correct?

12 A No, that would be up to her to answer.

13 Q Okay. Let me backup. We talked about this briefly.
14 You said you're involved with the swat team unit and
15 Sterling Heights has a swat team, right?

16 A Yes, and just for clarification, I was a member of
17 the Macomb County Sheriff's swat team.

18 Q Okay. Does Sterling Heights have its own swat team?

19 A Just within the past two/three months, yes.

20 Q Okay. So if you called the swat team out on October
21 30 of 2007, you'd have to call the Macomb County
22 Sheriff's swat team?

23 A Correct.

24 Q Okay. You could have done that because you're a
25 member of the team, right?

1 A I don't believe I was a member at that time.

2 Q When were you a member of the Macomb County swat
3 team?

4 A I think I've been off the team for probably about
5 six/seven years by now. So going back then we're
6 talking maybe three years I was off the team by
7 then.

8 Q Okay.

9 A But I would certainly know the protocols to initiate
10 that if that's what you're asking me.

11 Q Right, you know the protocols to contact the swat
12 team.

13 A Correct.

14 Q Okay. You could have used that microphone to
15 contact them?

16 A Yeah, I would have contacted our dispatch to
17 organize a swat team if I needed it, yes.

18 Q Okay. And that wasn't done here.

19 A No, sir.

20 Q At any time when you were -- Well, actually, let me
21 rephrase that. You said that Ms. Perovich was on
22 the floor when you and Officer Fett were trying to
23 handcuff her. Were you on the floor with Ms.
24 Perovich and Officer Fett at the same time? Did you
25 get down on the floor with them?

1 A I don't know that on the floor is the correct
2 statement to use. I was attempting --

3 Q I wasn't there. What was going on when you were
4 trying to arrest her?

5 A She was down on the ground when we tried -- we got
6 one handcuff onto her.

7 Q Okay.

8 A She started screaming in pain that her back hurt
9 her. So we stopped trying to get her other hand
10 behind her back.

11 Q Well, did you have to get on the floor to effectuate
12 the arrest? You didn't stand up and try to reach
13 down and handcuff her, right?

14 A I bent over. It depends what you're talking about.
15 To me on the floor I'm wondering if we're talking
16 about the same thing. I mean I didn't get down like
17 this and try to handcuff her.

18 Q Okay.

19 MR. KASZUBSKI: For the record, the officer
20 was in a crouching position originally and now is
21 showing himself on the ground, knees on the ground
22 on the floor as a difference, to clarify.

23 MR. MCQUEENEY: Okay.

24 BY MR. MCQUEENEY:

25 Q I mean you got down. You lowered yourself close --

1 A Bent over.

2 Q Bent over. Okay. And did you see a walker on the
3 floor at all?

4 A I don't remember a walker being there.

5 Q I don't have anything else.

6 MR. PEACOCK: I have no questions of the
7 Sergeant. Thank you.

8 MR. KASZUBSKI: Nothing for me, Sergeant.
9 Thank you.

10 THE WITNESS: Okay, sir.

11 (Whereupon, the deposition was concluded at
12 about 3:05 p.m.)
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